

REMARKS

In light of the above amendatory matter and remarks to follow, reconsideration and allowance of this application are respectfully solicited.

This amendment is submitted with an accompanying Request for Continued Examination in further response to the Final Office Action dated March 4, 2008. While Applicants continue to contend that the claims as previously presented by the amendment filed April 30, 2008 were patentably distinct over the prior art relied upon in the Final Rejection for the very reasons set out in the April 30<sup>th</sup> submission, in an effort to expedite the successful prosecution of the present application, the independent claims are further amended. Accordingly, the allowance of this application is respectfully urged.

As recited in the independent claims, the audience response is determined

by estimating if a majority of said audience response is intently watching or listening to said content, by estimating if a majority of said audience is clapping or singing along with the content, by estimating if a majority of said audience is clapping or shouting, by estimating if a majority of said audience is applauding or cheering and for estimating if a majority of said audience is standing, and by selecting the audience response as a function of said estimating.

Thus, the determination means of claims 1, 7 and 25, and the step of determining of claims 21 and 22 must be capable of estimating all of the recited audience responses. The determination of the audience response is made by selecting that response as a function of the estimating.

In the Advisory Action dated May 14, 2008, the Examiner stated in his fourth argument at the continuation of paragraph 11 of form PTOL-303, that the Kimpara reference allegedly determines the audience response of “clapping,” which was one of the alternative responses stated in claim 25. Notwithstanding this interpretation of Kimpara, claim 25, as well as all of the other independent claims, calls for the ability to estimate different audience responses, namely, (i) intent watching or listening, (ii) clapping or singing, (iii) clapping or shouting, (iv) applauding or cheering, and (v) standing. Then, the audience response is selected depending upon which of

these responses is detected. Even if Kimpara can detect clapping (Applicants' representative cannot find any teaching or suggestion that Kimpara has such a capability), Kimpara cannot estimate intent watching or listening, or singing or shouting or cheering or standing, all of which are estimated by Applicants' claims.

Therefore, for this reason alone, the independent claims are patentably distinct over the combination of references relied upon in the March 4, 2008 Final Rejection.

Applicants repeat and incorporate the remaining arguments presented in the Amendment filed April 30, 2008, as if those arguments are specifically set out herein.

It is respectfully submitted, claims 1-17 and 19-25, all the claims remaining in this application, are patentably distinct over the prior art of record and are in condition for allowance.

Statements appearing above in respect to the disclosures in the cited references represent the present opinions of the undersigned attorney and, in the event the Examiner disagrees with any of such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the references providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By   
William S. Frommer  
Reg. No. 25,506  
(212) 588-0800